

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE ENROLLED ACT No. 215

AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-7-2-14.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 14.7. "Ancillary services", for purposes of IC 12-10-17, has the meaning set forth in IC 12-10-17-2.**

SECTION 2. IC 12-7-2-18.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18.3. "Attendant care services", for purposes of IC 12-10-17, has the meaning set forth in IC 12-10-17-3.**

SECTION 3. IC 12-7-2-20.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 20.7. "Basic services", for purposes of IC 12-10-17, has the meaning set forth in IC 12-10-17-4.**

SECTION 4. IC 12-7-2-103.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103.5. "Health related services":

(1) for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-2; and

(2) for purposes of IC 12-10-17, has the meaning set forth in IC 12-10-17-5.

SECTION 5. IC 12-7-2-117.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 117.1. "Individual in need of**



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self-directed in-home care", for purposes of IC 12-10-17, has the meaning set forth in IC 12-10-17-6.

SECTION 6. IC 12-7-2-122.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 122.9. "Licensed health professional", for purposes of IC 12-10-17, has the meaning set forth in IC 12-10-17-7.**

SECTION 7. IC 12-7-2-137.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 137.3. "Personal services attendant", for purposes of IC 12-10-17, has the meaning set forth in IC 12-10-17-8.**

SECTION 8. IC 12-7-2-138 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 138. "Physician" means the following:

- (1) For purposes of **IC 12-10-17** and IC 12-15-35, ~~the meaning set forth in IC 12-15-35-12:~~ **an individual who is licensed to practice medicine in Indiana under IC 25-22.5.**
- (2) For purposes of IC 12-26, either of the following:
 - (A) An individual who holds a license to practice medicine under IC 25-22.5.
 - (B) A medical officer of the United States government who is in Indiana performing the officer's official duties.

SECTION 9. IC 12-7-2-174.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 174.5. "Self-directed in-home health care", for purposes of IC 12-10-17, has the meaning set forth in IC 12-10-17-9.**

SECTION 10. IC 12-10-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this chapter, "community and home care services" means services provided within the limits of available funding to an eligible individual. The term includes the following:

- (1) Homemaker services and attendant care, including personal care services.
- (2) Respite care services and other support services for primary or family caregivers.
- (3) Adult day care services.
- (4) Home health services and supplies.
- (5) Home delivered meals.
- (6) Transportation.
- (7) **Attendant care services provided by a registered personal**



services attendant under IC 12-10-17 to persons described in IC 12-10-17-6.

(8) Other services necessary to prevent institutionalization of eligible individuals when feasible.

SECTION 11. IC 12-10-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 17. Individuals in Need of Self-Directed In-Home Care

Sec. 1. This chapter does not apply to the following:

- (1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).
- (2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.
- (3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.
- (4) A practitioner (as defined in IC 25-1-9-2) who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).

Sec. 2. As used in this chapter, "ancillary services" means services ancillary to the basic services provided to an individual in need of self-directed in-home care who needs at least one (1) of the basic services (as defined in section 4 of this chapter). The term includes the following:

- (1) Homemaker type services, including shopping, laundry, cleaning, and seasonal chores.
- (2) Companion type services, including transportation, letter writing, mail reading, and escort services.
- (3) Assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

Sec. 3. As used in this chapter, "attendant care services" means those basic and ancillary services, which the individual chooses to direct and supervise a personal services attendant to perform, that enable an individual in need of self-directed in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility.

Sec. 4. As used in this chapter, "basic services" means a function that could be performed by the individual in need of self-directed in-home care if the individual were not physically disabled. The term includes the following:

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- (1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.
- (2) Assistance with routine bodily functions, including:
 - (A) health related services (as defined in section 5 of this chapter);
 - (B) bathing and personal hygiene;
 - (C) dressing and grooming; and
 - (D) feeding, including preparation and cleanup.

Sec. 5. As used in this chapter, "health related services" means those medical activities that:

- (1) in the opinion of the attending physician, could be performed by the individual if the individual were physically capable, and if the medical activity can be safely performed in the home; and
- (2) the person who performs the medical activity has received training or instruction from a licensed health professional, within the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed services.

Sec. 6. As used in this chapter, "individual in need of self-directed in-home care" means a disabled individual, or person responsible for making health related decisions for the disabled individual, who:

- (1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled program under IC 12-10-10;
- (2) is in need of attendant care services because of impairment;
- (3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;
- (4) chooses to self-direct a paid personal services attendant to perform attendant care services; and
- (5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

Sec. 7. As used in this chapter, "licensed health professional" means the following:

- (1) A registered nurse.
- (2) A licensed practical nurse.



- (3) A physician with an unlimited license to practice medicine or osteopathic medicine.
- (4) A licensed dentist.
- (5) A licensed chiropractor.
- (6) A licensed optometrist.
- (7) A licensed pharmacist.
- (8) A licensed physical therapist.
- (9) A certified occupational therapist.
- (10) A certified psychologist.
- (11) A licensed podiatrist.
- (12) A licensed speech-language pathologist or audiologist.

Sec. 8. As used in this chapter, "personal services attendant" means an individual who is registered to provide attendant care services under this chapter and who has entered a contract with an individual and acts under the individual's direction to provide attendant care services that could be performed by the individual if the individual were physically capable.

Sec. 9. As used in this chapter, "self-directed in-home health care" means the process by which an individual, who is prevented by a disability from performing basic and ancillary services that the individual would perform if not disabled, chooses to direct and supervise a paid personal services attendant to perform those services in order for the individual to live in the individual's home and community rather than an institution.

Sec. 10. (a) An individual may not provide attendant care services for compensation from Medicaid or the community and home options to institutional care for the elderly and disabled program for an individual in need of self-directed in-home care services unless the individual is registered under section 12 of this chapter.

(b) An individual who is a legally responsible relative of an individual in need of self-directed in-home care, including a parent of minor individual and a spouse, is precluded from providing attendant care services for compensation under this chapter.

Sec. 11. An individual who desires to provide attendant care services must register with the division or with an organization designated by the division.

Sec. 12. (a) The division shall register an individual who provides the following:

- (1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must

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certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 5-2-5 or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

(b) A registration is valid for one (1) year. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and

(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.

(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c). The division may charge a fee for shipping, handling, and copying expenses.

Sec. 13. (a) A personal services attendant who is hired by the individual in need of self-directed in-home care is an employee of the individual in need of self-directed in-home care.

(b) The division is not liable for any actions of a personal services attendant or an individual in need of self-directed in-home care.

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(c) A personal services attendant and an individual in need of self-directed in-home care are each liable for any negligent or wrongful act or omission in which the person personally participates.

Sec. 14. (a) Except as provided in subsection (b), an individual in need of self-directed in-home care is responsible for recruiting, hiring, training, paying, certifying any employment related documents, dismissing, and supervising in the individual's home during service hours a personal services attendant who provides attendant care services for the individual.

(b) If an individual in need of self-directed in-home care is:

- (1) less than twenty-one (21) years of age; or
- (2) unable to direct in-home care because of a brain injury or mental deficiency;

the individual's parent, spouse, legal guardian, or a person possessing a valid power of attorney may make employment, care, and training decisions and certify any employment related documents on behalf of the individual.

(c) An individual in need of self-directed in-home care or an individual under subsection (b) and the individual's case manager shall develop an authorized care plan. The authorized care plan must include a list of weekly services or tasks that must be performed to comply with the authorized care plan.

Sec. 15. The division shall adopt rules under IC 4-22-2 concerning:

- (1) the method of payment to a personal services attendant who provides authorized services under this chapter; and
- (2) record keeping requirements for personal attendant services.

Sec. 16. The individual in need of self-directed in-home care and the personal services attendant must each sign a contract, in a form approved by the division, that includes, at a minimum, the following provisions:

- (1) The responsibilities of the personal services attendant.
- (2) The frequency the personal services attendant will provide attendant care services.
- (3) The duration of the contract.
- (4) The hourly wage of the personal services attendant. The wage may not be less than the federal minimum wage or more than the rate that the recipient is eligible to receive under a Medicaid home and community based services waiver or the community and home options to institutional care for the

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elderly and disabled program for attendant care services.

(5) Reasons and notice agreements for early termination of the contract.

Sec. 17. (a) The office shall amend the home and community based services waiver program under the state Medicaid plan to provide for the payment for attendant care services provided by a personal services attendant for an individual in need of self-directed in-home care under this chapter, including any related record keeping and employment expenses.

(b) The office shall not, to the extent permitted by federal law, consider as income money paid under this chapter to or on behalf of an individual in need of self-directed in-home care to enable the individual to employ registered personal services attendants, for purposes of determining the individual's income eligibility for services under this chapter.

Sec. 18. The division may:

- (1) initiate demonstration projects to test new ways of providing attendant care services; and
- (2) research ways to best provide attendant care services in urban and rural areas.

Sec. 19. (a) The division and office may adopt rules under IC 4-22-2 that are necessary to implement this chapter.

(b) The office shall apply for any federal waivers necessary to implement this chapter.

Sec. 20. The division shall adopt rules under IC 4-22-2 concerning the following:

- (1) The receipt, review, and investigation of complaints concerning the neglect, abuse, mistreatment, or misappropriation of property of an individual in need of self-directed in-home care by a personal services attendant.
- (2) Establish notice and administrative hearing procedures in accordance with IC 4-21.5.
- (3) Appeal procedures, including judicial review of administrative hearings.
- (4) Procedures to place a personal services attendant who has been determined to have been guilty of neglect, abuse, mistreatment, or misappropriation of property of an individual in need of self-directed in-home care on the state nurse aide registry.

Sec. 21. This chapter expires July 1, 2003.

SECTION 12. IC 16-18-2-28.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: **Sec. 28.5. "Attendant care services", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-0.5.**

SECTION 13. IC 16-27-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "attendant care services" means those services that could be performed by an impaired individual for whom the services are provided if the individual were not impaired, that enable the impaired individual to live in the individual's home and community, rather than in an institution, and to carry out functions of daily living, self-care, and mobility. The term includes the following:**

- (1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.**
- (2) Assistance with routine bodily functions, including:**
 - (A) bathing and personal hygiene;**
 - (B) using the toilet;**
 - (C) dressing and grooming; and**
 - (D) feeding, including preparation and cleanup.**
- (3) The provision of assistance:**
 - (A) through providing reminders or cues to take medication, the opening of pre-set medication containers, and providing assistance in the handling or ingesting of non-controlled substance medications, including eye drops, herbs, supplements, and over-the-counter medications; and**
 - (B) to an individual who is unable to accomplish the task due to an impairment and who is:**
 - (i) competent and has directed the services; or**
 - (ii) incompetent and has the services directed by a competent individual who may consent to health care for the impaired individual.**

SECTION 14. IC 16-27-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) As used in this chapter, "home health services" means services that are:**

- (1) provided to a patient by:**
 - (A) a home health agency; or**
 - (B) another person under an arrangement with a home health agency;****in the temporary or permanent residence of the patient; and**
- (2) ordered by a licensed physician, a licensed dentist, a licensed chiropractor, a licensed podiatrist, or a licensed optometrist.**



(b) The term includes the following:

- (1) Nursing treatment and procedures.
- (2) Physical therapy.
- (3) Occupational therapy.
- (4) Speech therapy.
- (5) Medical social services.
- (6) Home health aide services.
- (7) Other therapeutic services.

(c) The term does not apply to the following:

- (1) Services provided by a physician licensed under IC 25-22.5.
- (2) Incidental services provided by a licensed health facility to patients of the licensed health facility.
- (3) Services provided by employers or membership organizations using health care professionals for their employees, members, and families of the employees or members if the health or home care services are not the predominant purpose of the employer or a membership organization's business.
- (4) Nonmedical nursing care given in accordance with the tenets and practice of a recognized church or religious denomination to a patient who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the patient's church or religious denomination.

(5) Services that are allowed to be performed by an attendant under IC 16-27-1-10.

(6) Authorized services provided by a personal services attendant under IC 12-10-17.

SECTION 15. IC 16-27-1-10, AS AMENDED BY P.L.256-1999, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. This chapter does not prohibit the provision of:

- (1) homemaker services, **including shopping, laundry, cleaning, and seasonal chores;**
- (2) companion **type** services, **including transportation, letter writing, mail reading, and escort services;**
- (3) **assistance with cognitive tasks, including managing finances, planning activities, and making decisions;**
- (4) **attendant care services;** or
- ~~(5)~~ **(5) any other services for which a an individual license, certification, registration, or permit is not required under state law.**

SECTION 16. IC 16-28-13-2, AS AMENDED BY P.L.108-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2001]: Sec. 2. (a) As used in this chapter, "other unlicensed employee" means:

- (1) an employee of a health facility; ~~or~~
- (2) a hospital based health facility; **or**
- (3) a personal services attendant (as defined by IC 12-10-17-8);**

who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

SECTION 17. IC 25-22.5-1-2, AS AMENDED BY SEA 180-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

- (1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.
- (2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.
- (3) A paramedic (as defined in IC 16-18-2-266), an advanced emergency medical technician (as defined in IC 16-18-2-6), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):
 - (A) during a disaster emergency declared by the governor under IC 10-4-1-7 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and
 - (B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.
- (4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.
- (5) An individual who is not a licensee who resides in another

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state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group

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of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions ~~(8)~~ (9) through ~~(17)~~; **(18)**, nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

- (A) a physician;
- (B) a psychiatric hospital;
- (C) a hospital;
- (D) a health maintenance organization or limited service health maintenance organization;
- (E) a health facility;
- (F) a dentist;
- (G) a registered or licensed practical nurse;
- (H) a midwife;
- (I) an optometrist;
- (J) a podiatrist;
- (K) a chiropractor;
- (L) a physical therapist; or
- (M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides care services as defined in IC 16-27-1-0.5.

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.

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(b) A person described in subsection ~~(a)(8)~~ **(a)(9)** through ~~(a)(17)~~ **(a)(18)** is not excluded from the application of this article if:

- (1) the person performs an act that an Indiana statute does not authorize the person to perform; and
- (2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection ~~(a)(20)~~ **(a)(21)** through ~~(a)(21)~~ **(a)(22)** and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection ~~(a)(7)~~ **(a)(8)** shall not be authorized to dispense contraceptives or birth control devices.

SECTION 18. IC 25-23-1-27.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.1. (a) As used in this section, "licensed health professional" means:

- (1) a registered nurse;
- (2) a licensed practical nurse;
- (3) a physician with an unlimited license to practice medicine or osteopathic medicine;
- (4) a licensed dentist;
- (5) a licensed chiropractor;
- (6) a licensed optometrist;
- (7) a licensed pharmacist;
- (8) a licensed physical therapist;
- (9) a ~~certified~~ **licensed** psychologist;
- (10) a licensed podiatrist; or
- (11) a licensed speech-language pathologist or audiologist.

(b) This chapter does not prohibit:

- (1) furnishing nursing assistance in an emergency;



- (2) the practice of nursing by any student enrolled in a board approved nursing education program where such practice is incidental to the student's program of study;
- (3) the practice of any nurse who is employed by the government of the United States or any of its bureaus, divisions, or agencies while in the discharge of the nurse's official duties;
- (4) the gratuitous care of sick, injured, or infirm individuals by friends or the family of that individual;
- (5) the care of the sick, injured, or infirm in the home for compensation if the person assists only:
 - (A) with personal care;
 - (B) in the administration of a domestic or family remedy; or
 - (C) in the administration of a remedy that is ordered by a licensed health professional and that is within the scope of practice of the licensed health professional under Indiana law;
- (6) performance of tasks by persons who provide health care services which are delegated or ordered by licensed health professionals, if the delegated or ordered tasks do not exceed the scope of practice of the licensed health professionals under Indiana law;
- (7) a physician with an unlimited license to practice medicine or osteopathic medicine in Indiana, a licensed dentist, chiropractor, dental hygienist, optometrist, pharmacist, physical therapist, podiatrist, psychologist, speech-language pathologist, or audiologist from practicing the person's profession; ~~or~~
- (8) a school corporation or school employee from acting under ~~IC 34-4-16.5-3.5~~; **IC 34-30-14**;
- (9) a personal services attendant from providing authorized attendant care services under IC 12-10-17; or**
- (10) an attendant who provides attendant care services as defined by IC 16-27-1-0.5.**

SECTION 19. IC 34-30-2-43.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 43.9. IC 12-10-17-13(b) (Concerning actions of a personal services attendant).**

SECTION 20. [EFFECTIVE JULY 1, 2001] (a) As used in this SECTION, "commission" refers to the governor's commission on caregivers established by subsection (d).

(b) As used in this SECTION, "health facility" has the meaning set forth in IC 16-18-2-167.

(c) As used in this SECTION, "long term care caregivers" means certified nurse aides, licensed practical nurses, and



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registered nurses employed in health facilities, home health care, and other community based settings.

(d) The governor's commission on caregivers is established.

(e) The commission consists of the following members:

(1) The governor or the governor's designee, who shall serve as the chairperson.

(2) The state health commissioner (IC 16-19-4-2) or the commissioner's designee.

(3) The president of the Indiana state board of nursing (IC 25-23-1-5) or the president's designee.

(4) The secretary of family and social services (IC 12-8-1-2) or the secretary's designee.

(5) The chairman of the commission for higher education (IC 20-12-0.5-7) or the chairman's designee.

(6) The state superintendent of public instruction or the superintendent's designee.

(7) The commissioner of the department of workforce development (IC 22-4.1-3-1) or the commissioner's designee.

(8) The director of the department of commerce (IC 4-4-3-2) or the director's designee.

(9) The commissioner of the department of labor (IC 22-1-1-2) or the commissioner's designee.

(10) One (1) member appointed by the governor to represent each of the following organizations:

(A) The Indiana Association of Homes and Services for the Aging.

(B) The Indiana Health Care Association.

(C) The Indiana Association for Home and Hospice Care.

(D) The Indiana State Nurses Association.

(E) The Indiana Health and Hospital Association.

(F) The Indiana Home Care Task Force.

(G) The Indiana Association of Area Agencies on Aging.

(H) United Senior Action.

(I) The Indiana University School of Nursing.

(J) Ivy Tech State College.

(11) One (1) member appointed by the governor to represent a private postsecondary educational institution that offers nursing degrees.

(f) The commission shall do the following:

(1) Review data and information on the availability of and need for long term care caregivers.

(2) Evaluate barriers to increasing the supply of long term

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care caregivers.

(3) Evaluate the adequacy of existing training programs in the state for long term care caregivers.

(4) Develop recommendations to increase the supply of long term care caregivers, including the following:

(A) Welfare to work programs.

(B) Worker recruitment and incentive programs.

(C) Immigration.

(D) Linkages between training programs and the long term care and senior services industries.

(E) Cross-training of nurse aides across the continuum of long term care services.

(F) Potential roles for various state agencies and educational institutions represented on the commission.

(g) Eleven (11) members of the commission constitute a quorum.

(h) The affirmative votes of at least eleven (11) members of the commission are required for the commission to take any action, including the approval of a final report.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(j) The commission may contract with a private individual or organization to provide the staff support necessary for the operation of the commission, including conducting research and developing the report required under subsection (k).

(k) The commission shall submit a report to the governor and the legislative council not later than October 1, 2002.

(l) There is appropriated to the commission forty-nine thousand dollars (\$49,000) from the state general fund to implement this SECTION, beginning July 1, 2001, and ending October 1, 2002.

(m) Funds appropriated under subsection (l) do not revert to the state general fund at the close of a state fiscal year but remain available to the commission through October 1, 2002.

(n) This SECTION expires October 2, 2002.

SECTION 21. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning.

(b) The office shall apply for any necessary federal waivers to provide Medicaid reimbursement of attendant care services provided by registered personal services attendants to Medicaid recipients under IC 12-10-17, as added by this act.

(c) Notwithstanding IC 12-10-17, as added by this act, the office

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may not implement IC 12-10-17, as added by this act, for Medicaid waiver recipients until:

- (1) any necessary waiver is approved; and
- (2) the office has filed an affidavit with the governor attesting that the appropriate federal waiver applied for under this SECTION is in effect.

The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(d) If the office receives a waiver under this SECTION from the United States Department of Health and Human Services, and the governor receives the affidavit filed under subsection (c), the office shall implement the waiver not later than sixty (60) days after the governor receives the affidavit.

(e) This SECTION expires July 1, 2006.

SECTION 22. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding IC 12-10-17-12(a)(5), as added by this act, the division of disability, aging, and rehabilitative services may not establish a registration fee that exceeds thirty dollars (\$30).

(b) Notwithstanding IC 12-10-17-12(d)(2), as added by this act, the division of disability, aging, and rehabilitative services may not charge a fee for shipping, handling, and copying expenses that exceeds five dollars (\$5) per file.

(c) The division of disability, aging, and rehabilitative services may adopt rules under IC 4-22-2 that are necessary to implement this SECTION.

(d) This SECTION expires July 1, 2003.

SECTION 23. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 12-10-17-20, as added by this act, the division of disability, aging, and rehabilitative services shall adopt rules required under IC 12-10-17-20 before March 1, 2002.

(b) Notwithstanding IC 16-28-13-2, as amended by this act, the state department of health shall not place a personal services attendant on the state nurse aide registry before March 1, 2002.

(c) This SECTION expires March 1, 2002.

SECTION 24. [EFFECTIVE UPON PASSAGE] (a) IC 25-22.5, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to an attendant who provides attendant care services as defined in IC 16-27-1-0.5.

(b) Notwithstanding IC 25-22.5-1-2 and IC 25-23-1-27.1, both as amended by this act, an individual may not provide attendant care services until July 1, 2001.

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(c) This SECTION expires July 1, 2001.
SECTION 25. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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